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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/597,445	06/20/2000	Zoey Chu	1616-238	6247

7590

04/25/2002

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EXAMINER

BARFIELD, ANTHONY DERRELL

ART UNIT PAPER NUMBER

3636

DATE MAILED: 04/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

'Office Action Summary

Application No.

09/597,445

Applicant(s)

Zooey Chu

Examiner

Anthony D Barfield

Art Unit

3636



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jan 29, 2002
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-14, and 16-22 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10 is/are allowed.
- 6) ☒ Claim(s) 1-5, 8, 9, 11-14, 16, and 22 is/are rejected.
- 7) ☒ Claim(s) 6 and 17-21 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other: _____

Art Unit: 3636

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 8, is indefinite as it depends from canceled claim 7. The phrase “ the top and bottom of the frame” has no antecedent basis in claim 13.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

4. Claims 1-4,9,11-13 and 22 as best understood are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Sparks. Sparks shows the use of a frame (50) having a top and bottom and a support shell (20) with a plurality of vertical extending members or slats (101,102) that are mounted on the support shell and which are inherently flexible as the back support

Art Unit: 3636

conforms to the back of the user. The shell and slats are integrally formed upon assemblage of the shell.

5. Claims 1-5,8,11-14,16 and 22 as best understood are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Seymer. Seymer shows the use of a frame (A) having a top and bottom and a support shell (10,11-14) with a plurality of vertical extending members or slats (10) that are mounted on the support shell and which are inherently flexible as the back support conforms to the back of the user. The shell and slats are integrally formed upon assemblage of the shell. The frame comprises an outer peripheral portion that surrounds a central portion in which the vertical extending members (10) are positioned.

Allowable Subject Matter

6. Claim 10 is allowed over the prior art made of record.

Claims 6,17-21 are objected to as being dependent upon a rejected base claim, but would be allowable over the prior art made of record if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments filed 1/29/02 have been fully considered but they are not persuasive. In response to applicant's argument that Sparks has failed to show the teachings of a canceled claim 7, the applicant should refer to the above rejection. The applicant should further

Art Unit: 3636

note that all of the limitations of canceled claim 7, were not placed in amended claim 1, i.e., "the vertical extending members are provided on the support shell at one vertical end thereof"

8. Applicant's arguments with respect to claims 1-6,8-9 and 11-14 have been considered but are moot in view of the new ground(s) of rejection.

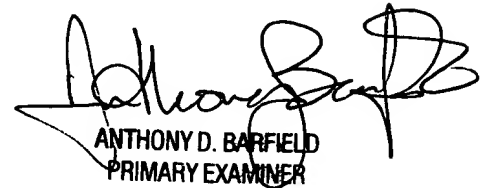
Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 3636

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony D. Barfield whose telephone number is (703) 308-2158.



ANTHONY D. BARFIELD
PRIMARY EXAMINER

adb

April 22, 2002